



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 209-98

4 October 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the United States Navy, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing the offense of sexually harassing a seaman recruit from the record of his 19 January 1995 summary court-martial.

2. The Board, consisting of Mr. Adams, Mr. Pfeiffer, and Ms. Moidel, reviewed Petitioner's allegations of error and injustice on 21 July 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 16 June 1988.

d. On 19 January 1995 Petitioner was convicted by a summary court-martial of fraternization with a female seaman recruit. At the same court-martial, he was acquitted of sexually harassing the same person. The court sentenced him to a forfeiture of \$500 and restriction for 15 days.

e. On 14 February 1995 a Court Memorandum NAVPERS 1070/607 was

prepared which showed that on 19 January 1995 he was convicted of both fraternization and sexual harassment.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. Since it is clear that Petitioner was convicted only of fraternization and not sexual harassment by the 19 January 1995 summary court-martial, the offense of "wrongfully sexually harassing a student" should be deleted from the 14 February 1995 Court Memorandum NAVPERS 1070/607.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by deleting the following words from the 14 February 1995 Court Memorandum 1070/607:


"wrongfully sexually harassing a student, and"

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

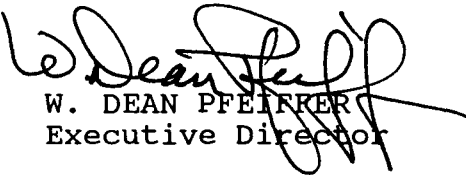
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director